

EXHIBIT 3

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 Index No. 1:19-cv-2987

5 -----x
6 YELENA RUDERMAN,

7
8 Plaintiff,

9
10 - against -

11
12 LAW OFFICE OF YURIY PRAKHIN, P.C., and
13 YURIY PRAKHIN, in both his individual and
14 professional capacities,

15 Defendants.
16 -----x

17
18 December 12, 2020

19
20 10:03 a.m.

21
22 DEPOSITION of a non-party
23 witness, IRENE H. GABO, ESQ., pursuant to
24 Notice, taken by the Plaintiff, held via
25 Zoom Video Conferencing, before Abner D.
Berzon, a Registered Professional
Reporter, Certified Realtime Reporter and
Notary Public of the State of New York,
via Zoom Video Conferencing.

1 GABO

2 Q. Okay. What did you think of
3 Ms. Ruderman's performance during the
4 period after she was rehired in 2018?

5 A. I think she came back with more
6 experience and a better -- better
7 knowledge of, you know, CPLR and caseloads
8 and things like that. I think they threw
9 a lot at her at Mallilo & Grossman.

10 Q. So you think she was a better
11 attorney than she was during her initial
12 stint at the firm, at which time she was
13 less experienced?

14 A. Yes.

15 Q. At any time in 2018, did
16 Mr. Prakhin ever tell you he was
17 dissatisfied with the quality of
18 Ms. Ruderman's work?

19 A. No.

20 Q. Did he ever tell you he was
21 dissatisfied with the notes she was or
22 were you not entering into SAGA.

23 A. Yes.

24 Q. What did he tell you about SAGA?

25 A. That she didn't always enter her

1 GABO

2 (Time noted: 10:49 a.m.)

3 (Brief recess.)

4 (Time noted: 10:53 a.m.)

5 BY MR. HARTZBAND:

6 Q. Ms. Gabo, at any time in 2018,
7 did Mr. Prakhin ever tell you he was upset
8 with or dissatisfied with the amount that
9 Ms. Ruderman relied on Erica Larssen?

10 A. No.

11 Q. Dissatisfied with the amount
12 that she relied on Patricia Belous?

13 A. No.

14 Q. Did he ever tell you he was
15 dissatisfied with the amount of time
16 Ms. Ruderman was in or out of the office?

17 A. No.

18 Q. Did he ever tell you he was
19 dissatisfied with any other aspect of
20 Ms. Ruderman's performance, apart from the
21 areas we've just discussed?

22 (Witness loses Zoom connection.)

23 MR. HARTZBAND: We can go off
24 the record.

25 (Time noted: 10:53 a.m.)

1 GABO

2 (Discussion held off the

3 record.)

4 (Time noted: 10:58 a.m.)

5 (Discussion held off the

6 record.)

7 (Record read.)

8 A. No.

9 Q. Ms. Gabo, to your knowledge, did
10 Mr. Prakhin ever tell Ms. Ruderman that he
11 was dissatisfied with her performance in
12 any way?

13 A. I don't know.

14 Q. Did Ms. Ruderman ever tell you
15 that she believed Mr. Prakhin was
16 dissatisfied with her performance?

17 A. No.

18 Q. To your knowledge, did any
19 clients ever complain to the firm about
20 Ms. Ruderman during her second term of
21 employment?

22 A. No.

23 Q. We discussed earlier that you
24 left the firm in October -- on October 1st
25 of 2018; correct?

1 GABO

2 A. Correct.

3 Q. About how many cases did you
4 manage prior to your decision to leave the
5 firm?

6 A. About 250 of my own, and about
7 500 of everybody else's.

8 Q. Wow! And when you left, the
9 majority of the cases you were managing on
10 your own were transferred to Ms. Ruderman;
11 right?

12 MS. DONNELLY: Objection.

13 A. No.

14 Q. Let's back up then. How were
15 the cases that you were transferred, that
16 you were managing, distributed among other
17 attorneys at the firm before you left?

18 A. We had another attorney who was
19 handling premises cases. Her name was
20 Sandra Beron. And I believe I more or
21 less equally split it between Ms. Ruderman
22 and Ms. Beron.

23 Q. Did you give cases to any other
24 attorneys?

25 A. I don't believe so.

1 GABO

2 Q. And so you said you had about
3 250 cases of your own, so roughly 125 to
4 Ms. Beron, 125 to Ms. Ruderman?

5 A. I would say maybe a little more
6 to Ms. Beron, because she already had a
7 paralegal she was working with, and Yelena
8 was kind of starting new with these new
9 paralegals. Probably about a hundred to
10 Ms. Ruderman.

11 Q. What paralegal was Ms. Beron
12 working with?

13 A. Her first name was Yesenia.

14 Q. Were you in favor of this
15 distribution of your cases going
16 exclusively to Ms. Ruderman and Ms. Beron?

17 MS. DONNELLY: Objection.

18 A. There was nobody else.

19 Q. There were no other attorneys at
20 the firm?

21 A. Not that handled premises case
22 on a regular basis.

23 Q. Did you leave -- did you believe
24 Ms. Ruderman and Ms. Beron were well suit
25 to do handle the cases after you left?

1 GABO

2 Q. Okay. I'm going to stop sharing
3 my screen with you for now.

4 Ms. Gabo, we discussed earlier a
5 program called SAGA in which Prakhin firm
6 attorneys are expected enter notes
7 regarding their cases; right?

8 A. Correct.

9 Q. In your experience working at
10 the firm, how diligent were attorneys at
11 the Prakhin firm about entering notes in
12 SAGA?

13 A. Not very diligent.

14 Q. And you'd say that generally
15 about the attorneys, or are you speaking
16 about any particular person?

17 A. Generally.

18 Q. So they didn't operate -- they
19 didn't update SAGA as frequently as they
20 should?

21 A. As I'd like them to.

22 Q. As much as Mr. Prakhin would
23 like them to as well?

24 A. Of course.

25 Q. And that was an ongoing concern

1 GABO

2 at the firm?

3 A. True.

4 Q. And that included in 2018, up
5 until you left; right?

6 A. Yes.

7 MS. DONNELLY: Objection.

8 Q. During her first term of
9 employment at the firm from, up until
10 February or so of 2017, Ms. Ruderman, like
11 other attorneys, also failed to update
12 SAGA as frequently as she should; right?

13 A. Correct.

14 Q. And that included entering EBT
15 notes into SAGA; right?

16 A. Correct.

17 Q. In your opinion, would that have
18 been a valid basis to terminate
19 Ms. Ruderman's employment?

20 MS. DONNELLY: Objection.

21 A. No.

22 Q. Are you aware of any attorney,
23 in all of your time working at the firm,
24 who's been fired for failing to update or
25 enter notes into SAGA as frequently as he

1 GABO

2 or she should?

3 A. No.

4 Q. Okay.

5 MR. HARTZBAND: Let's just take
6 two minutes here. We're gonna go
7 through several exhibits in a row.
8 Rather than making you all wait on the
9 record, I'll just introduce them now.

10 (Time noted: 11:18 a.m.)

11 (Brief recess.)

12 (Time noted: 11:22 a.m.)

13 (Plaintiff's Exhibit 65,
14 printout of e-mail from Sandra Beron
15 regarding EBT's, dated September 11,
16 2018, Bates stamped D07450, marked for
17 identification, this date.)

18 BY MR. HARTZBAND:

19 Q. So I pulled up a few documents.
20 So, Ms. Gabo, I pulled up a few documents
21 that I'd like to go over with you. I'm
22 gonna share my screen as we have with the
23 other exhibits we've gone over today. Are
24 you able to see my screen? Ms. Gabo,
25 you're muted right now. We can't hear

1 GABO

2 you.

3 A. Yes. Can you make it bigger?

4 Q. Yes. Absolutely. So, just for
5 the record, this document was produced by
6 defendants Bates stamped D7450. It's a
7 one-page document. I'm going to zoom in
8 on the message for you. Are you able to
9 see it now?

10 A. Yes.

11 Q. Okay. Please review the e-mail
12 that's in front of you. Let me know when
13 you are done.

14 A. Yes.

15 Q. Okay. This is an e-mail from
16 Sandra Beron to several attorneys firm;
17 right?

18 A. Correct.

19 Q. And in this e-mail she's
20 reminding those attorneys to be more
21 diligent about updating SAGA; right?

22 MS. DONNELLY: Objection.

23 A. Putting in EBT to notes into
24 SAGA.

25 Q. Into SAGA.

1 GABO

2 Because failing to enter EBT
3 notes in SAGA was a common widespread
4 problem at the firm; right?

5 MS. DONNELLY: Objection.

6 A. I wouldn't say it was
7 widespread, but I would have liked more
8 notes than there were.

9 Q. Was failing to input EBT notes a
10 problem that Ms. Ruderman only had, or
11 that other attorneys had as well?

12 MS. DONNELLY: Objection.

13 A. I think other attorneys had as
14 well.

15 Q. Do you read Ms. Beron's e-mail
16 as being direct to do Ms. Ruderman
17 specifically?

18 A. No.

19 Q. Do you read it as being directed
20 to any particular person?

21 A. No, because when the EBTs were
22 assigned, they weren't assigned to you
23 because you handled the case. They were
24 assigned to you because you were available
25 that day. So it's possible that Sandy

1 GABO

2 would do Yelena's EBT and Yelena would do
3 Greg's EBT, so I think it was addressed to
4 everybody.

5 Q. Because attorneys were covering
6 each other's EBTs on a regular basis?

7 A. All the time, yes.

8 Q. And those notes were not always
9 being put into SAGA or not being put into
10 SAGA in a timely manner?

11 MS. DONNELLY: Objection.

12 A. Correct.

13 (Plaintiff's Exhibit 66,
14 printout of e-mails from Irene Gabo
15 dated September 24, 2018, Bates
16 stamped D010015 regarding useful tips
17 for handling of files, marked for
18 identification, this date.)

19 Q. I'm going to show you the next
20 document that I've marked for us here. It
21 is a one-page document produced by
22 defendants at Bates stamped D 10358 and
23 marked as Exhibit -- oh, excuse me. I'm
24 reading the wrong Bates number. The Bates
25 number is D 10015. Although it's covered

1 GABO

2 by the exhibit sticker which says

3 Exhibit No. 66.

4 I'd like you to review this
5 entire e-mail and let me know when you're
6 done. Let me see if I can make it big
7 enough --

8 A. Okay.

9 Q. Okay. Are you able to read
10 that?

11 A. Yes.

12 Q. You've read the document?

13 A. Yes.

14 Q. And I'm just going to show you
15 the very top of it, just the From, Sent,
16 To, and Subject, because that was not
17 visible to you when I zoomed in.

18 A. Yes.

19 Q. This is an e-mail you sent to
20 several attorneys and paralegals at the
21 firm; right?

22 A. Correct.

23 Q. And in this the e-mail, you are
24 reminding the staff of the firm,
25 generally, to be more diligent about

1 GABO

2 updating SAGA; right?

3 A. Correct.

4 (Plaintiff's Exhibit 67,
5 printout of e-mails between Yelena
6 Ruderman to Irene Gabo dated August 6,
7 2018 regarding Falkovich, Tatyana v.
8 The City of New York Bates stamped
9 D010358, marked for identification,
10 this date.)

11 Q. Okay. I'm going to show you
12 another document. This one has been
13 marked as Exhibit No. 67. It's Bates
14 stamped D 10358. It's a one-page
15 document. I'm going to zoom in on the
16 e-mail chain so you can review it.

17 A. Okay.

18 Q. This is an e-mail exchange
19 between you and Ms. Ruderman; right?

20 A. Yes.

21 Q. In the first e-mail in the
22 chain, marked Monday, August 6th, 2018, at
23 12:21 p.m., you wrote to Ms. Ruderman:
24 "Was EBT of P held?" No docs for 2018,
25 including April order."

1 GABO

2 Do you see that?

3 A. Yes.

4 Q. Were you referring to documents
5 in SAGA?

6 A. Yes.

7 Q. And in reply, at 12:42 p.m.,
8 Ms. Ruderman wrote: "No notes re: P's
9 EBT..." and sent a message after that as
10 well. Do you see that?

11 A. Yes.

12 Q. And she's telling you that
13 another attorney, another attorney, not
14 her, failed to enter notes regarding the
15 Plaintiff's EBT in SAGA; right?

16 A. No. That's not what she's
17 saying.

18 Q. What is she saying?

19 A. She's saying it's possibly the
20 Plaintiff's EBT was waived and, in this
21 kind of situation, it's most likely
22 because the plaintiff appeared for a
23 preliminary hearing called a 50-h, so a
24 lot of times, if that was done, the City
25 would waive the EBT of the plaintiff later

1 GABO

2 on.

3 (Plaintiff's Exhibit 68,
4 printout of e-mails dated November 20,
5 2018, Bates stamped D09648, D09645 and
6 D09646 regarding December NOIs, marked
7 for identification, this date.)

8 Q. I see. And we can go to the
9 next document. This document has been
10 marked Plaintiff's Exhibit No. 68. It's a
11 three-page document, Bates stamped, D 9646
12 to D 9648. I'd like you to read the full
13 document, but I think we can go through
14 the first couple of pages pretty quickly.
15 This is D 9646. Let me know when I can
16 scroll up from here.

17 A. Scroll up.

18 Q. This is D 9645.

19 A. Okay. Scroll up.

20 Q. It's the first page that -- I'll
21 zoom in closely on those last three e-mail
22 chains of e-mails.

23

24 A. Okay. Go up, please. Okay, I
25 see it.

1 GABO

2 Q. This is an e-mail chain
3 involving you and other attorneys and
4 staff at the firm?

5 A. Attorneys and paralegals.

6 Q. And at the very top of the
7 chain, the most recent e-mail, it's sent
8 by Lilit Avetisyan, who, at least at this
9 time, was an attorney at the firm; right?

10 A. Correct.

11 Q. To your knowledge, is Lilit
12 still working at the firm?

13 A. No idea.

14 Q. And Lilit writes: "You're
15 right. Sorry. I must have never updated
16 the date after the PC."

17 Do you see that?

18 A. Yes.

19 Q. What's she referring to?

20 A. I don't know.

21 (Plaintiff's Exhibit 69,
22 printout of e-mails dated December 8
23 and 12, 2018 regarding Fishman, Chana
24 v. JIB Realty Holding Co., Bates
25 stamped D011069, marked for

1 GABO

2 identification, this date.)

3 Q. And then the last, for this
4 stretch, is Plaintiff's Exhibit No. 69,
5 document Bates stamped D 11069. It's a
6 one-page document. I'm going to zoom in
7 on the relevant part, really the only
8 part -- it's blank underneath here -- so
9 you can read it more easily.

10 A. Yes.

11 Q. Let me know when you are done.
12 You're done?

13 A. Yes.

14 Q. At the beginning of the chain,
15 there's an e-mail from you to Ms. Ruderman
16 on December 8th at 3:23 p.m.; right?

17 A. Correct.

18 Q. And you wrote: "Ask Greg for
19 EBT notes on this one." Do you see that?

20 A. Yes.

21 Q. You were asking Ms. Ruderman to
22 have Greg Nahas provide his EBT notes on a
23 particular case; right?

24 A. Correct.

25 Q. And that's because those notes

1 GABO

2 were not in SAGA; right?

3 A. Correct.

4 Q. Okay. I'm going to stop sharing
5 my screen.

6 Ms. Gabo, are you aware that
7 Ms. Ruderman suffers from a vision
8 impairment?

9 A. I'm sorry. Say it again.

10 Q. Are you aware that Ms. Ruderman
11 suffers from a vision impairment?

12 A. At the present?

13 Q. At present, are you aware?

14 A. Yes.

15 Q. When did you first learn of
16 Ms. Ruderman's vision impairment?

17 MS. DONNELLY: Objection.

18 A. You would have to be
19 more specific, because I believe her
20 vision impairment changed in severity.

21 Q. When did you first learn that
22 Ms. Ruderman was having any trouble
23 seeing?

24 A. September.

25 Q. September? Do you recall

1 GABO

2 discussed this condition with Mr. Prakhin,
3 or you just don't recall doing so?

4 A. I don't recall it.

5 Q. And same answer for Ms. Raskin?

6 A. Correct.

7 MR. HARTZBAND: Alright. We're
8 done with those exhibits.

9 Q. Ms. Gabo, did you ever ask
10 Ms. Ruderman to provide you or the firm
11 with medical documentation regarding the
12 issue with her vision?

13 A. No.

14 Q. To your knowledge, did
15 Mr. Prakhin ever ask Ms. Ruderman to
16 provide medical documentation regarding
17 the vision impairment?

18 A. Not to my knowledge.

19 Q. To your knowledge, did
20 Ms. Raskin ever ask Ms. Ruderman to
21 provide such documentation?

22 A. Not to my knowledge.

23 Q. Did you ever have a discussion
24 with Mr. Prakhin or Ms. Raskin about
25 Ms. Ruderman providing a doctor's note or

1 GABO

2 other medical documentation of her vision
3 impairment?

4 A. I don't think so.

5 Q. Going back to your testimony
6 from a moment ago, do you recall when you
7 were in Israel searching for the glasses
8 you referenced?

9 A. I think it must have been
10 Passover 2019. So April. I would say
11 late April.

12 Q. Ms. Ruderman took -- you
13 mentioned earlier that Ms. Ruderman took
14 some absences from work --

15 A. Correct.

16 Q. -- during her time at the firm.

17 A. Correct.

18 Q. And, in particular, she took two
19 absences that were a week long; right?

20 MS. DONNELLY: Objection.

21 A. I don't recall how long they
22 were, but I know she was absent.

23 Q. Do you recall over what periods
24 of time she was absent?

25 A. One had to be between September